

ZONING BOARD OF APPEALS

**Tuesday, August 18, 2009
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street**

Present:

ZBA Members: Alicia DiBenedetto Neubauer
Aaron Magdziarz
Dan Roszkowski
Julio Salgado
Scott Sanders
Craig Sockwell

Absent:

Staff: Jessica Roberts, Planner II
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Frank Schmitt - Chief, Fire Prevention
Kerry Partridge, City Attorney

Others: Alderman Carl Wasco (left at 6:50 PM)
Kathy Berg, Stenographer
Applicants and Interested Parties

Acting Chairman Dan Roszkowski called the meeting to order at 6:30 PM.

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.

The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, August 31st, at 4:30 PM in Conference Room A of this building as the second vote on these

items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for any future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting.

A **MOTION** was made by to Craig Sockwell to **APPROVE** the minutes of the July 21st meeting as submitted. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

032-09 629 Robert Avenue

Applicant: Michael Boge

Ward 2 **Variation** to increase the front yard fence height from the maximum allowed 4 feet to 5 feet 10 inches in an R-1, Single-family Zoning District

The subject property is located on the southeast corner of Robert Avenue and Rural Street and is a single-family residence. Michael Boge, Applicant, reviewed his request for Variation. Mr. Boge explained this property is a corner lot with an existing 5' fence along one side. He wishes to construct a brick fence along Rural Street, not within the sight triangle, to act as a buffer against traffic noise. The fence will match the house, and the posts will be coined to match the corners. Mr. Boge submitted a signed petition from adjacent property owners showing their support of this request.

Staff Recommendation was for Approval with 3 conditions. Prior to the meeting, an additional letter of support was received from Julie and Garry Bower, 625 Robert Avenue. No Objectors or interested parties were present.

Ms. Neubauer agreed with Staff condition number 3 stating the property owner install sidewalk along Rural Street. Mr. Boge was agreeable to this.

The Board felt the plans submitted by the applicant were very attractive and would add to the aesthetics of the property.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to increase the front yard fence height from the maximum allowed 4 feet to 5 feet 10 inches in an R-1, Single-family Zoning District at 629 Robert Avenue. The Motion was **SECONDED** by Aaron and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Must meet applicable building and fire codes.
2. Site must develop in accordance with site plan and building elevations submitted.
3. That the property owner install sidewalk along Rural Street.

**ZBA 032-09
Findings of Fact for a Variation
To Increase the Front Yard Fence Height
From Maximum Allowed Four Feet (4')
To Five Feet Ten Inches (5'10")
In an R-1, Single-Family Residential Zoning District at
629 Robert Avenue**

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

033-09 **3001-3061 North Perryville Road**
Applicant Sunil Millennium Capital I, L.P.
Ward 1 **Special Use Permit** for a pick up window
Variation to reduce the required stacking spaces from eight (8) stacking spaces to three (3) stacking spaces in a C-2, Limited Commercial District

The subject property is bounded by North Perryville Road to the west, Spring Creek Road to the south and McFarland to the east and is approximately 3.32 acres with two buildings on site. Attorney Marvin Keys, representing the Applicant, reviewed the requests. This property is a shopping center with retail and restaurants. Pizza Hut has proposed to locate there. Attorney Keys explained the stacking variation is not for a typical drive-thru situation. It is literally a pick-up window only as a result of phoned-in orders. A new site plan was submitted showing a shift in the pick up window further towards the parking lot. In response to Mr. Sanders question, Attorney Keys stated there was also a seating area inside. Mr. Sockwell asked if a person could go to the establishment and order directly from the window. Attorney Keys stated he was not able to answer that question. He stated a Pizza Hut representative was expected at this meeting but was not present. Mr. Sanders was concerned that an escape lane was not available; however Mr. Roszkowski felt there was adequate access.

Staff Recommendation was for Approval of both requests with 3 conditions. No Objectors or interested parties were present.

Ms. Roberts stated the Board may chose to amend condition 2 since a new site plan was submitted. Mr. Hollander stated Public Works would prefer to see an escape lane and to have the window further north to allow more stacking. He clarified that any congestion that may occur would be within the parking lot and not the street. Mr. Roszkowski felt the submitted plan was acceptable. Discussion was held on a pedestrian crossing for safety between stacked vehicles should they protrude into the parking lot area near the entrance to the building, but the Board felt that was not necessary.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a pick up window; and to **APPROVE** a Variation to reduce the required stacking spaces from eight (8) stacking spaces to three (3) stacking spaces in a C-2, Limited Commercial District at 3001-3061 North Perryville Road with revised condition 2 to include the amended window location and stacking. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. The pick up window is limited to the space shown on revised Exhibit D
3. If the use of a carryout pizza restaurant is discontinued, the new proposal must be evaluated prior to establishing the new use and may require modification of the Special Use Permit.

ZBA 033-09
Findings of Fact for a Special Use Permit
For a Pick-Up Window in a C-2, Limited Commercial District at
3001-3061 North Perryville Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2 Zoning District in which it is located and conditions of approval.

ZBA 033-09
Findings of Fact for a Variation
To Reduce the Required Stacking Spaces
From Eight (8) Stacking Spaces to Three (3) Stacking Spaces
In a C-2, Limited Commercial District at
3001-3061 North Perryville Road

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.

4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

034-09 1533 Kishwaukee Street

Applicant Attorney Mario Tarara

Ward 5 **Modification of Special Use Permit #001-77** for an expansion of more than 10% for an auto repair facility in a C-3, General Commercial District

Prior to this meeting, a written request was received from the Applicant to Lay Over this item to the September 15th meeting of the Zoning Board of Appeals.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the **Modification of Special Use Permit #001-77** for an expansion of more than 10% for an auto repair facility in a C-3, General Commercial District. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

035-09 Zoning Text Amendments

Applicant City of Rockford

21-002 Allowed Uses:

50-001 Applicability

50-003 Off-Street Parking Ratios

063-014 Modification of Special Use Permit

Article 91 General Terms

Article 92 Measurements

Jessica Roberts, Planner II, reviewed the Zoning Text Amendments. She explained these amendments were of the housekeeping sort, with the intention to better clarify the revised 2008 Ordinance. Each item was explained as attached described below:

21-002 Allowed Uses:

Table 21-1 Use Classification Table: Add “drop box” in Table 21-1 as prohibited use in C-1 and C-2 and Special Use in C-3 district

Table 21-1 Use Classification Table: Table 21-1 Change “intertrack waging facility” from “S” to “P” in a C-2.

50-001 Applicability

50-001-A: add “parking lot permit” as follows...a zoning certification and “parking lot permit (driveway permit for one and two family structures)” is required for any construction or reconstruction of parking facilities...

50-003 Off-Street Parking Ratios

50-003-F Off-Street Parking Schedule: All Zoning Districts: Under Section 50-003-F Parking Group A, R-2, include “At least one of the required parking spaces for a single-family home must be located within a fully enclosed garage”.

063-014 Modification of Special Use Permit

63-014 G: Delete...committee and, not more than 60 days thereafter (unless otherwise agreed upon by the applicant), the City Council shall approve, reverse, or modify....

Article 91 General Terms

Add definition of drop box in Article 91, General Terms as follows: “drop box-anything constructed, erected, or installed including accessory structures, fenced areas or collection bins used for the purpose of collecting clothes and other donated items from the public”

Article 92 Measurements

92-009 Features allowed to Encroach in Required Residential Setbacks Add: accessory buildings used for domestic storage (e.g., sheds and tool rooms) as permitted in side yard.

Alicia asked where Drop Boxes would be allowed. Ms. Roberts stated Drop Boxes were always prohibited, but did not have detailed background information at this time. Attorney Partridge helped to clarify by stating his understanding is that charities are not coming to pick up the boxes or clean them out and clothing and other articles are being laid out on the ground or surrounding area. He feels the Ordinance has left the option open for drop off, but that it pertains to on-site drop offs. The intent is to clarify that off-site drop offs are discouraged.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Text Amendments as presented. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

ZBA 036-09 1502 - 1516 North Lyford Road

Applicant City of Rockford Legal Department

Ward w/b 1 **Annexation and Zoning Map Amendment** from County AG and R-1, Single-family Zoning District to C-2, Limited Commercial Zoning District

The subject property consists of 16 vacant acres located approximately 4,075 feet north of East State Street and on the west side of Lyford Road. Jessica Roberts reviewed the request for Zoning Map Amendment. The west portion, 1502 North Lyford Road, is located in Unincorporated Winnebago County but is owned by the City. The east property, 1516 North Lyford Road, is currently zoned R-1, Single-family Residential. She explained the 2020 Plan calls for this area to be developed as Tech Industrial and Commercial Office use. The C-2 District provides for a wide range of development options with no outdoor storage allowed. Outdoor sales would be limited to sidewalks of the business owner. Ms. Roberts further explained that Tentative and Final Plats would be required prior to development.

Mr. Roszkowski pointed out the recent annexation and zoning in this area. He asked Ms. Roberts why this property was zoned as C-2 but another area in the vicinity was zoned as C-1. Mr. Hollander stated the area Mr. Roszkowski is questioning has a large flood plain area which is the reason for the C-1 zoning.

Staff Recommendation is for Approval. No Objectors were present; however there were Interested Parties in attendance.

Carl Avery, 7966 Royal Oaks Road. Mr. Avery had a hearing disability so to assist him Ms. Roberts and Mr. Hollander addressed their conversations to him directly. He stated his understanding is that the only property in question was by the highway. Ms. Roberts explained the proposed area, showing Mr. Avery the map as well. Mr. Avery asked if the City was going to improve Lyford Road. Mr. Hollander explained the developer of the property would be required to improve the involved area of Lyford Road. As an example, he stated the area further south on Lyford Road where the bus station is going to develop will be improved by the developer of that particular property. When the subject property, as well as any other property along Lyford Road is developed, there would be a corresponding improvement made to Lyford Road at that time. Mr. Avery verified that no developer was interested at this time to which Mr. Hollander responded he was correct.

Gwendolyn Titus, 7994 Royal Oaks Road wished to verify the location of her property to the subject property. Ms. Roberts showed her the location on the map. Ms. Titus was concerned with what development would take place on the property. Ms. Roberts explained that a mandatory Planned Unit Development would require the developer to come back before the Zoning Board when 15 acres or more are developed. The subject property is 16 acres. Mr. Sanders also explained the requirement of buffering for any commercial development to occur between the new development and the adjacent property owners. He also expressed the hope that development on the proposed property would cause better traffic circulation rather than the existing path through Royal Oaks residential area.

Mr. Roszkowski asked what the plan might be for the two pieces of property that are farmettes not included in the subject property, but in the nearby area. Mr. Hollander stated he could not venture to guess what the use might be at this time, but that these parcels are more infill areas than development.

Mr. Roszkowski stated it was hard for him to make a decision on something which there was no detail on. Mr. Sanders responded that this application for zoning change would allow developers the opportunity to bring those details forward. It was verified that this property would have to be developed in accordance with the new City Ordinance.

A **MOTION** was made by Alicia Neubauer to the **APPROVE** the Annexation and Zoning Map Amendment from County AG and R-1, Single-family Zoning District to C-2, Limited Commercial Zoning District at 1502-1516 North Lyford Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

ZBA 036-09
Findings of Fact for a Zoning Map Amendment
From County AG and R-1, Single-Family Zoning District
To C-2, Limited Commercial Zoning District at
1502 and 1516 North Lyford Road

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;

- b. This proposal protects the character, scale and stability of the adjacent residential and commercial property because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
- 2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as T-CO, Tech industry-Commercial Office.

With no further business to come before the Board, the meeting was adjourned at 7:30 PM.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals